THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.25952 OF 2005

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Dated: 06-12-2005

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Between

D.A. Papanna Gupta, S/o. D.A. Narayana Gupta, Occ: Business, R/o. D.No.13/55, B.K.N. Street, Kadapa Town, Kadapa District and another.

...PETITIONERS

AND

The Kadapa Municipal Corporation, rep. by its Commissioner, Kadapa, Kadapa District and another.

...RESPONDENTS

ORDER:

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Heard the learned counsel for the petitioners as well as the learned standing counsel appearing for the first respondent.

Learned counsel for the petitioners submits that the petitioners are the original owners and possessors of two bits of land in an extent of Ac.0.88 cents and Ac.1.26 cents in Sy.Nos.47/1 and 47/2 respectively of Kadapa Town. It is further submitted that adjacent to the land of the petitioners, some persons have encroached the Government poramboke land in Sy.No.46. It is submitted that the suits filed by the petitioners to evict the encroachers were decreed, but no action was taken against the encroachers. Therefore, the petitioners filed W.P.No.11876 of 2005 wherein a counter was filed by the respondents stating that notices had already been issued to evict the encroachers under Section 7 of the

Andhra Pradesh Land Encroachers Act. This Court by order dated 29.06.2005 disposed the writ petition directing the respondents to pass appropriate orders in pursuance of the notices issued to the encroachers on 14.07.2002 within two weeks from the date of receipt of the said order.

It is further submitted that the revenue authorities have not taken any final action evicting the encroachers but the first respondent is taking steps to lay a road through the lands of the petitioners.

It is always open for the first respondent to take appropriate action either by acquiring the land under land acquisition proceedings or acquire the same under Sections 146 and 147 of the Municipal Corporation Act (for short 'the Act'), but without following the due process of law the first respondent cannot dispossess the petitioners from any portion of their land or lay a road through their lands.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the first respondent not to dispossess the petitioners and not to lay road through the private lands of the petitioners without initiating any due process of law under Sections 146 and 147 of the Act.

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V. ESWARAIAH, J

December 6, 2005

DSK